IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

OP.No. 16773 of 1999(V)

PETITIONERS:

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1) KUNJAMMA V.P., WIDOW OF K.K.GOVINDAN, AGED 60 YEARS, KAKKANATTEZHATHU HOUSE, BUDHANOOR P.O., ALAPPUZHA DISTRICT.

2) VIJAYAN V.K., S/O.GOVINDAN, KAKKANATTEZHATHU HOUSE, BUDHANOOR P.O., ALAPPUZHA DISTRICT.

BY ADV. SRI.O.V.MANIPRASAD

RESPONDENTS:

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1) STATE OF KERALA, REP: BY THE COMMISSIONER AND SECRETARY TO GOVERNMENT, CIVIL SUPPLIES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2) THE DISTRICT SUPPLY OFFICER, ALAPPUZHA.

3) THE TALUK SUPPLY OFFICER, CHENGANNUR.

BY GOVT. PLEADER SRI.R.LAKSHMI NARAYANAN.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.NO.27299 OF 1999 IN OP.NO.16773 OF 1999-V.

DISMISSED.

7.9.2007. **Sd/- T.R.Ramachandran Nair, Judge.**

PETITIONER'S EXHIBITS:-

Ext.P1: **Copy of the licence issued by the 2nd respondent on 19.7.1984 to Sri.K.K.Govindan.**

Ext.P2: **Copy of the proceedings No.CS.5.897/95 dtd.1.6.95 of the 2nd respondent.**

Ext.P3: **Copy of the proceedings No.CS 5.6357/96 of the 2nd respondent dtd.10.9.1997 issuing temporary licence to the 2nd petitioner.**

Ext.P4: **Copy of the appeal filed by Sri.K.K.Govindan before the 1st respondent through the Chief Minister.**

Ext.P5: **Copy of the notice issued by the 2nd respondent on 29.5.1999.**

Ext.P6: **Copy of the certificate of death issued by the Registrar of Births and Deaths, Budhanoor Grama Panchayat dt.14.6.1999.**

RESPONDENTS' EXHIBITS:- **NIL.**

(true copy)

P.A. TO JUDGE.

Kvs/-

T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 16773 of 1999-V.

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Dated this the 7th day of September, 2007.

J U D G M E N T

The petitioners have approached this Court challenging Ext.P5 notification issued by the District Supply Officer, Alappuzha inviting applications for appointment as authorised retail distributor for ARD.No.12 at Budhanoor of Chengannur Taluk from persons who belong to Scheduled Caste. The first petitioner's husband and the father of the 2nd petitioner was the permanent authorised retail distributor of the shop. He was appointed as per Ext.P1. The apparent contention raised in this writ petition was that there is an appeal pending as per Ext.P4 against the cancellation of it and therefore the notification for appointment of a fresh authorised distributor is premature.

2. The 1st respondent has filed a counter-affidavit pointing out that the husband of the 1st petitioner is no more and he had not filed any appeal as pointed by the petitioners. The authorisation issued to the deceased husband of the 1st petitioner was cancelled consequent on the commission of serious irregularities. No appeal was filed by the late husband of the 1st petitioner or thereafter by the petitioners. Second petitioner was appointed on a temporary basis in the meanwhile. It is under these circumstances the

District Supply Officer invited applications from among the members of Scheduled Caste for appointment. It is also pointed out that the petitioners have not filed any application also.

3. In the light of the above state of affairs, there are no grounds to quash Ext.P5. Since there is a requirement to appoint an authorised retail distributor, the competent authority as per the provisions of the Kerala Rationing Order has initiated steps and it cannot be said to be arbitrary. It cannot also be disputed that a permanent authorised retail distributor can be appointed against that vacancy.

4. As per order dated 6.2.1999 in CMP.No.27299/1999 an interim direction was granted not to make any appointment of permanent authorised retail distributors pursuant to Ext.P5 notification and the order was in force till now. Therefore, due to the lapse of time it will be only proper that a fresh notification is published by the competent authority inviting applications afresh making it clear that persons who have applied pursuant to the notification Ext.P5 will also be considered. It would be open to the petitioners also to submit application. The competent authority can take appropriate decision in the matter.

The writ petition is disposed of accordingly. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-